

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IVONNE GUERRERO, et al.,
Plaintiffs,
v.
COUNTY OF SAN BENITO, et al.,
Defendants.

Case No.: C 08-0307 PVT

**INTERIM ORDER RE PLAINTIFFS'
MOTION FOR PRETRIAL
DISCOVERY**

On December 9, 2008, Plaintiffs filed a document entitled "Motion for Pretrial Discovery."¹ Having reviewed the moving papers, the court finds it appropriate to issue this interim order. Based on the moving papers presented,

IT IS HEREBY ORDERED that, no later than December 17, 2008, each party shall submit a short brief addressing the issue of whether California Penal Code section 832.7(a) and California Evidence Code section 1043 apply in this federal court action.² It appears Plaintiffs filed this motion

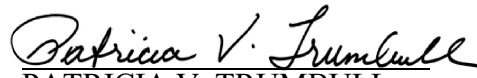
¹ The holding of this court is limited to the facts and the particular circumstances underlying the present motion.

² Under Federal Rule of Evidence 501, privileges provided by state law apply in civil actions only "with respect to an element of a claim or defense as to which State law supplies the rule of decision." See FED.R.EVID. 501; see also, *Breed v. U.S. Dist. Court for the N. Dist. of Cal.*, 542 F.2d 1114, 1115 (9th Cir. 1976) (in a federal Section 1983 action, "[s]tate law [as to privileges] may provide a useful referent, but it is not controlling").

1 to comply with those California statutes. In their briefs, the parties shall also address: 1) whether
2 Plaintiffs have propounded any corresponding Rule 34 document requests for the documents at issue
3 in this motion; 2) if not, whether the motion should be deemed to be such requests; and 3) a proposal
4 for a deadline for Defendants to respond if the motion is deemed to be a Rule 34 request for
5 production of documents.

6 IT IS FURTHER ORDERED that the remaining briefing and hearing for Plaintiffs' motion
7 are STAYED pending further order of the court.

8 Dated: 12/12/08

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10 PATRICIA V. TRUMBULL
11 United States Magistrate Judge
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